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D.B. CIVIL SPECIAL APPEAL NO.65/2007.
[RSRTC & ORS. VS. ASHOK THANVI]

DATED : 23.01.2007

HON'BLE MR. RAJESH BALIA, J.
HON'BLE MR. CHATRA RAM JAT, J.

Mr.V.K.Mathur for appellant.

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Having heard learned counsel for the appellant, we do not find any merit in this appeal.

The reimbursement of the expenses incurred on treatment of the brain injury suffered by the petitioner at the Bombay Hospital, Mumbai is sought to be denied by the appellant Corporation wholly owned by the State of Rajasthan solely on the basis that procedure for having a proper reference to Bombay Hospital have not been followed by the incumbent and instead of having referred to Bombay Hospital by M.G.Hospital, Jodhpur first to SMS Hospital, Jaipur and then from SMS, Hospital, Jaipur to Mumbai, he has been directly referred to Bombay Hospital, Mumbai. We are unable to agree with this contention. The principle is now no more res intergra. The Supreme Court in the matter of State of Punjab Vs. Ram Lubhaya Bagga & Ors. [(1988) 4 SCC 117] had approved the principle that while by making rules the employer can restrict the extent reimbursement of expenses

with reference to expenses estimated to be incurred at any recognised center, but reimbursement even to that extent cannot be denied on the ground by laying down the detail procedure for making reference to the desired center for taking the treatment which is not practical in all circumstances.

The Court observed that such procedure deprive persons from getting better treatment at other places. Some of the serious diseased do not knock or warn through bell giving them time. Emergency cases require immediate treatment and if with a view to comply with the procedure one has to wait then it could be fatal. One may not in such cases live, if such a procedure is strictly followed. Thus, while the Supreme Court approved the principle to the extent State Policy restricts the reimbursement of medical expenses with reference to designated hospital rates, denial of reimbursement of medical expenses altogether merely on the basis of place where treatment has been taken because of not following the procedure laid down for securing such treatment was not approved. The same principle was annunciated in Surjit Singh's case held thereto.

Considering that judgment, Division Bench of this Court in D.B.Civil Special Appeal No.874/2006 State of Rajasthan Vs. Thomas T. decided on 12.1.22006 had opined that :-

> "Wherever the State Policy of reimbursement of medical expenses requires strait jacket procedural requirement to be fulfilled before obtaining treatment from Government or designated hospital, the same has not been approved by the Supreme Court. It was observed that procedure laid down for the same was very onerous, sometime not workable specially in the emergency cases....."

In view of the aforesaid this appeal fails and is, hereby dismissed in limine.

[CHATRA RAM JAT]J. **[RAJESH BALIA], J.**

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